

**REMARKS**

This Application has been carefully reviewed in light of the Final Office Action mailed September 21, 2004. In order to advance prosecution of this case, Applicants amend Claims 2, 3, 6-7, 11-12, 14-15, 19-20, 23-24, 26-29, 32, 34, 38, 40, 42, 44, 46, and 48. Applicants previously canceled Claims 1, 10, and 18 without prejudice or waiver. Applicants respectfully request reconsideration and favorable action in this case.

**INTERVIEW SUMMARY**

Applicants' Attorney, Mr. Todd A. Cason (Reg. No. 54,020), conducted a telephonic interview ("the Telephone Interview") with Examiner Philpott on December 3, 2004. Applicants submit this summary of the Telephone Interview to record Applicants' understanding of the substance of the Telephone Interview. If Applicants' understanding is inaccurate, notice of such is appreciated.

Applicants thank the Examiner for the courtesy and opportunity to conduct the Telephone Interview. During the Telephone Interview, the Examiner and Applicants' Attorney discussed the Examiner's rejections of Applicants' claims and claim amendments proposed by Applicants' Attorney. Applicants' Attorney and the Examiner agreed that the proposed amendments, as entered below, are not disclosed by the cited references.

**Allowed Claims**

Applicants note with appreciation the Examiner's allowance of Claims 4, 13, 21-22, 30-31, 36-37, and 42-43.

Section 102 Rejections

The Examiner rejects Claims 2-3, 5-6, 8, 19-20, 22-23, 25, and 48 under 35 U.S.C. S. 102(e) as being anticipated by U.S. Patent No. 6,512,740 issued to Baniewicz et al. ("Baniewicz"). As amended, Claim 3 recites:

In a TDM network having a plurality of switchable traffic paths to a common destination, a method comprising:

receiving TDM traffic from a traffic source as a plurality of copies of traffic routed along a plurality of predetermined traffic paths originating at the traffic source, each one of said traffic paths having a receive circuit;

communicating qualifying information over a communication path that is separate from the traffic paths and couples two or more receive circuits, wherein the qualifying information describes performance characteristics of the TDM traffic received by one or more receive circuits;

configuring a TDM switch to provide a route to a common destination for each one of the traffic paths;

determining a qualified copy of the traffic based on qualifying information that is exchanged between two or more receive circuits; and

discarding all copies of the traffic except for the qualified copy such that only the qualified copy is passed to the TDM switch for routing to a common destination.

Baniewicz fails to recite, expressly or inherently, every element of Claim 3 for several reasons. For example, as the Applicants' Attorney and the Examiner agreed during the Telephone Interview, Baniewicz fails to recite, expressly or inherently, "communicating qualifying information over a communication path that is separate from the traffic paths and couples two or more receive circuits, wherein the qualifying information describes performance characteristics of the TDM traffic received by one or more receive circuits" as recited by Claim 3. In particular, the portion of Baniewicz cited by

the Examiner as disclosing "communicating information related to qualifying between the respective circuits" states that:

In FIG. 7, for example, in-band messages are piggy-backed on links, out-of-band message traffic may flow along any other possible path between nodes. With the present invention, certain messages must flow in-band. These include the keep-alive message, the path verification message, and the signal fail message.

Col. 7, ll. 56-61, emphasis added.

Thus, to whatever extent the Examiner may be accurate in asserting that Baniewicz discloses "communicating information related to qualifying between the respective circuits," Baniewicz clearly does not perform such communication "over a communication path that is separate from the traffic paths[.]" Therefore, Baniewicz does not disclose, expressly or inherently, "communicating qualifying information over a communication path that is separate from the traffic paths and couples two or more receive circuits, wherein the qualifying information describes performance characteristics of the TDM traffic received by one or more receive circuits" as recited by Claim 3.

As a result, Baniewicz does not disclose, expressly or inherently, every element of Claim 3, as the Examiner and the Applicants' Attorney agreed during the Telephone Interview. Claim 3 is thus allowable for at least this reason. Applicants respectfully request reconsideration and allowance of Claim 3 and its dependents.

Although of differing scope from Claim 3, Claims 6, 20, 23, and 48 include elements that, for reasons substantially similar to those discussed with respect to Claim 3, are not disclosed, expressly or inherently, by Claims 6, 20, 23, and 48. Claims 6, 20, 23, and 48 are thus allowable for at least these reasons. Applicants respectfully request

reconsideration and allowance of Claims 6, 20, 23, and 48, and their respective dependents.

### Section 103 Rejections

The Examiner rejects Claims 9, 11-12, 14, 16-17, 26-29, 33, 35, 39, 41, 45, and 47 under 35 U.S.C. § 103(a) as being unpatentable over *Baniewicz*. As amended, Claim 12 recites:

In a TDM network having a plurality of traffic paths to a destination, an apparatus comprising:

a plurality of receive circuits coupled to monitor signals on respective predetermined traffic paths originating at the traffic source to a TDM switch, each receive circuit operable to set a kill-bit, based on qualifying information exchanged between two or more receive circuits, to accompany TDM traffic sent to the TDM switch to indicate whether the TDM traffic should be switched or discarded;

a memory coupled to the receive circuits and operable to receive the TDM traffic with accompanying kill-bits, the memory operable to store the TDM traffic having an accompanying kill-bit that has not been set, the memory further operable to discard the TDM traffic having an accompanying kill-bit that has been set; and

a communication path coupling two or more receive circuits, the communication path separate from the traffic paths and operable to convey qualifying information for TDM traffic received by one or more receive circuits, wherein the qualifying information comprises a keep-alive signal transmitted by one of the receive circuits.

*Baniewicz* fails to disclose, teach, or suggest every element of amended Claim 12. *Baniewicz* fails to disclose "a communication path coupling two or more receive circuits, the communication path separate from the traffic paths and operable to convey qualifying information for TDM traffic received by one or more receive circuits[.]" As noted above with respect to Claim 3 and agreed to by the Examiner during the Telephone Interview, to whatever extent *Baniewicz*

discloses "qualifying information" Baniewicz does not disclose "a communication path coupling two or more receive circuits, the communication path separate from the traffic paths and operable to convey qualifying information for TDM traffic received by one or more receive circuits."

As a result Baniewicz does not disclose, teach, or suggest every element of Claim 12. Claim 12 is thus allowable for at least these reasons. Applicants respectfully request reconsideration and allowance of Claim 12 and its dependents.

Although of differing scope from Claim 12, Claims 14 and 28 include elements that, for reasons substantially similar to those discussed with respect to Claim 12, are not disclosed, taught, or suggested by Baniewicz. Claims 14 and 28 are thus allowable for at least these reasons. Applicants respectfully request reconsideration and allowance of Claims 14 and 28, and their respective dependents.

As amended, Claim 27 recites:

In a TDM network having a plurality of switchable traffic paths to a common destination, a method comprising:

receiving TDM traffic from a traffic source as a plurality of copies of traffic routed along a plurality of predetermined traffic paths originating at the traffic source, each one of said traffic paths having a receive circuit;

configuring a TDM switch to provide a route to a common destination for each one of the traffic paths;

determining, based on qualifying information communicated between two or more receive circuits over a communication path that is separate from the traffic paths and that couples the two or more receive circuits, a qualified copy of the traffic, wherein the qualifying information describes performance characteristics of the TDM traffic received by one or more of the receive circuits; and

discarding all copies of the traffic except for the qualified copy such that only the qualified copy is passed to the TDM switch for routing to the

common destination, wherein each receive circuit is operable to:

- receive TDM traffic associated with a virtual tributary (VT);

- determine if the TDM traffic is pass-through based on the VT and qualifying information received by a particular receive circuit over the communication path; and

- if the TDM traffic is not pass-through, set an accompanying kill-bit if the receive circuit is stand-by for the particular VT.

*Baniewicz* also fails to disclose, teach, or suggest every element of amended Claim 27. As noted above and agreed to by the Examiner during the Telephone Interview, *Baniewicz* does not disclose any "communication path that is separate from the traffic paths and that couples the two or more receive circuits[.]" Consequently, *Baniewicz* does not disclose "determining, based on qualifying information communicated between two or more receive circuits over a communication path that is separate from the traffic paths and that couples the two or more receive circuits, a qualified copy of the traffic, wherein the qualifying information describes performance characteristics of the TDM traffic received by one or more of the receive circuits" as recited by Claim 27.

As a result, *Baniewicz* fails to disclose, teach, or suggest every element of amended Claim 27. Claim 27 is thus allowable for at least this reason. Applicants respectfully request reconsideration and allowance of Claim 27 and its dependents.

Although of differing scope from Claim 27, Claim 29 includes elements that, for reasons substantially similar to those discussed with respect to Claim 27, are not disclosed, taught, or suggested by *Baniewicz*. Claim 29 is thus allowable for at least this reason. Applicants respectfully request reconsideration and allowance of Claim 29 and its dependents.

The Examiner rejects Claims 7, 24, 32, and 44 under 35 U.S.C. § 103(a) as being unpatentable over *Baniewicz* in view of U.S. Patent No. 5,903,371 issued to Arecco et al. ("Arecco"). Claims 7 and 32 depend from Claim 6, and Claims 24 and 44 depend from Claim 23. Claims 6 and 23 are shown above to be allowable. Claims 7, 24, 32, and 44 are thus allowable for at least these reasons. Applicants respectfully request reconsideration and allowance of Claims 7, 24, 32, and 44, as noted above with respect to Claims 6 and 23.

The Examiner rejects Claims 15, 34, 38, 40, and 46 under 35 U.S.C. § 103(a) as being unpatentable over *Baniewicz* in view of *Arecco*. Claims 15, 34, 38, 40, and 46 depend from Claims 14, 27, 14, 28, and 29, respectively, which have all been shown above to be allowable. Claims 15, 34, 38, 40, and 46 are thus allowable for at least these reasons. Applicants respectfully request reconsideration and allowance of Claims 15, 34, 38, 40, and 46, as noted above with respect to Claims 14, 27, 28, and 29.

Conclusions

Applicants appreciate the Examiner's efforts to review this case. Applicants' prior response attempted to clarify the patentable aspects of the claimed invention. This response is necessary to further clarify the patentable aspects of the claimed invention and to distinguish the claimed invention from the cited references and the Examiner's perception of the scope of the cited references. This response was not earlier presented, and is therefore presented herein, due to the realization that the patentable aspects of the claimed invention presented earlier have not been specifically appreciated by the Examiner in order to attain a clear understanding of the claimed invention.



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A check in the amount of \$790.00 is enclosed to cover the RCE filing fee. No additional fees are believed to be due. The Commissioner however is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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